

**LOCAL GUIDE TO SMALL CLAIMS COURT  
SECOND JUDICIAL CIRCUIT  
CLERK OF COURTS**

**MINNEHAHA COUNTY**

**425 N. Dakota Avenue**

**Sioux Falls, SD 57104-2470**

**\*(605) 367-4924\* \*(605) 782-3026\* \*(605) 782-3027\***

**LINCOLN COUNTY**

**104 N. Main Street**

**Canton, SD 57013**

**(605) 987-5891**

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This information is intended to provide basic public information, not legal advice. Court staff must remain neutral and impartial; we cannot coach or advise one side against another. If you have legal questions, please consult with an attorney or review the information published here.

Small Claims Court is an informal process which allows people to sue for money damages. The procedures are simple enough that individuals can file and handle their own claims in court. The maximum limit set by current law for South Dakota Small Claims actions is \$12,000 plus court costs. Claims for more than \$12,000 must be filed as formal civil actions, unless a party is willing to waive recovery of any amounts over \$12,000.

The parties to the action are called the **Plaintiff** (party filing the claim) and the **Defendant** (party against whom the claim is filed). Small Claims actions must be filed in the county where the defendant resides and/or in the county where the loss/action occurred. Filing a claim is not a guarantee of payment.

**Starting a Small Claims Action (Plaintiff):**

The Plaintiff or his/her attorney must provide the Clerk of Court with the following:

1. *Plaintiff's Statement of Claim*, signed by the Plaintiff, describing how the loss or damage occurred and must include the exact dollar amount claimed
2. Supporting documents for the amount you are seeking (see examples below)
3. Correct spelling of the Defendant's name and their current mailing address
4. *Filing fee(s) and court costs*, which will be added to the amount of the claim (refer to *Filing Fee Schedule*)
5. *Civil Case Filing Statement*
6. *Affidavit of Non-Military Status*

**Examples of Supporting Documents:**

- Car Accident: Police/Accident Reports and two (2) estimates for repairs or proof of value if vehicle is totaled
- Past Due Rent: Copy of the lease if available, the dates for which rent covers, the exact dollar amount, address of rental property, receipts for any damages you are seeking
- Security Deposit: A copy of the receipt(s) or proof of payment of security deposit(s)
- Past Due Account: Copy of bill(s) or statement(s)
- NSF, Account Closed or Stop Payment Checks: The original check

**\*\*\*Filing Fees are NON-REFUNDABLE\*\*\***

Once the clerk accepts required documents, the Plaintiff will receive an assigned default hearing date, as well as an answer date for the Defendant (set approximately six weeks out, to allow for service upon the Defendant). In order to receive a Default Judgment (see description below) or to notify the Clerk of any settlements, the Plaintiff must appear on the assigned default hearing date. If a settlement has been reached, the Plaintiff must appear in person to sign off on the claim.

**A note about calendaring small claims cases in Sioux Falls:** Because of our very high volume of small claims cases – about 10,000 per year – the court in Sioux Falls uses a special calendaring process that is not used at many other courts. The process might seem complicated or inconvenient to the public. Here's the explanation. About 90% of all small claims cases never go to trial – they are settled or paid before trial, or the defendant never responds at all and a default judgment is issued. Therefore, the court in Sioux Falls automatically sets every case for default hearing first. At the default hearing a court clerk takes a roll call of all the cases. Settlements, payments, dismissals, and default judgments will all be determined at the default hearing. As a result, for 90% of all the parties, the case will be done very quickly, judgments will be issued, and the case will be finished and closed. For the very few parties who want a trial, the case will then be reset for trial at a later date. We understand that setting a case for two dates might seem less efficient and it may sometimes mean a party has to come to the courthouse twice on one case; however, the process we use now means that 90% of all small claims filers get their cases completed in a very quick and simple way.

### **Personal Service of Small Claims Notices:**

In order to receive a judgment against the Defendant, it is the Plaintiff's responsibility to make sure the Defendant is properly served and proof is provided to the Clerk of Court prior to the court date. If the defendant refuses the certified mailing, the Court still considers them served. If the certified mailing is returned "unclaimed", the Plaintiff may contact a process server for personal service of Small Claims Notices.

Note: Please remember that while the following list of agencies and private process servers may be helpful in resolving service issues, they are not specifically endorsed and cannot provide legal advice.

Minnehaha County Sheriff (605)367-4331	Express Attorney Service - Sherwin Bolks (605)335-8693
Lincoln County Sheriff (605)764-5651	JW Services - Jo Brinkman (605)330-8993
Action Process Serving (605)360-2881	Private Process Servers (See "Process Servers" in the Yellow Pages)

### **Defendant's Options:**

If the Defendant, after receiving notice of a lawsuit, wishes to settle the dispute without going to trial, he/she is encouraged to contact the Plaintiff and try to arrange a settlement. In the event an out-of-court settlement is reached, it is the Plaintiff's responsibility to contact the Clerk of Court and cancel the lawsuit. The Defendant is advised to contact the Clerk of Court to verify the cancellation.

If the Defendant wishes to deny/answer or counterclaim the Plaintiff's claim, he/she must file a *Defendant's Denial/Answer/Counterclaim* with the Clerk of Court, specifically stating what is being disputed or counterclaimed and the reason behind it. Documentation must be filed with the Clerk of Court on or before the assigned date. At trial, the original claim and counterclaim will be heard at the same time. Plaintiff and Defendant should verify date, time and location of the trial and arrive on time.

**Removal to Circuit Court:** The Defendant may request to have the action transferred to circuit court to be handled as a formal civil case. The procedure for this can be found in the South Dakota Codified Laws. Formal civil procedures are significantly more complicated and technical than small claims so a bond is also required to help ensure that the removal to circuit court is not being requested just to make a case more difficult to pursue.

## **Subpoena Process for Witnesses (Plaintiff or Defendant):**

The Plaintiff or Defendant may request to have witnesses subpoenaed to testify on their behalf. Subpoenas are obtained through the Clerk of Court. The cost is \$2.00 per person. There are certain guidelines in state statutes that must be followed on service and witness fees. For more information, please read the second page of the subpoena forms.

**\*\*\*In South Dakota, Small Claims Judgments are FINAL and cannot be appealed\*\*\***

Default Judgment: If the Defendant fails to properly comply with the notice or fails to appear for the assigned hearing, a Judgment can be entered in favor of the Plaintiff. A Notice of Entry of Judgment will be mailed to the Plaintiff and Defendant. The Plaintiff may attempt to collect if the Defendant does not pay within 10 days.

Contested Cases: The Clerk swears in Plaintiffs, Defendants and all subpoenaed Witnesses. The Judge will ask questions of both parties about their claim. Upon receiving and reviewing all available testimony, the Judge generally announces a decision at that time. However, the Judge may delay his/her decision and put the Judgment in writing at a later date. If a money judgment is rendered in a contested case, parties must adhere to the time permitted (30 days) for payment before additional steps are taken to collect.

**The award of a Judgment does not guarantee payment of the claim. The court makes the decision and records the Judgment, but it does not enforce collection. While the entry of Judgment can be used to record a lien against the debtor, it does not guarantee payment of the debt.**

**The Court does not report judgments to credit bureaus or private collection agencies. Judgments and small claims cases are public record however, and credit bureaus and collection agencies often gather information at the courthouse for their own use. If you have a dispute with a credit bureau about the accuracy of judgment information, we can make copies of the court file, but credit report disputes should be directed to the credit reporting agencies themselves or the appropriate consumer protection agencies.**

## **Collection of Debt:**

Executions: If you are not paid within the respective time period, you may return to the Clerk of Court and obtain an Execution, which is an order requiring the Sheriff to attempt to collect or satisfy your judgment. The cost of an Execution is \$5.00 and needs to be paid, in advance, to the Clerk of Court. Please contact the Sheriff's Department regarding collection fees.

Garnishment of Wages: To pursue garnishment of wages, you must know where the debtor is employed. You may obtain garnishment forms at some office supply stores or on the Internet, or consult an attorney. The court in South Dakota does not publish garnishment forms itself. Garnishments can be legally complex and although court staff will be as helpful as possible, we cannot give legal advice or "coach" one party against another.

Driver's License, License Plates and Vehicle Registration: The driver's license, license plates and vehicle registration of a debtor may be suspended if the claim arises from a motor vehicle accident. When the judgment is entered, the Plaintiff is encouraged to contact the Driver Licensing Program in Pierre (1-800-952-3696) for further instructions regarding suspensions.

**The Plaintiff should file a Satisfaction of Judgment with the Court when and if the judgment has been paid in full. If a Plaintiff refuses to file a satisfaction even though the judgment has been paid, a Defendant can provide proof of the payment to the Court and ask a judge to direct that a Satisfaction be entered.**

## Small Claims

Small Claims Court is an informal process which allows people to sue for losses of money or property. The procedures are simple and inexpensive. The maximum limit set by current law for South Dakota Small Claims actions is \$12,000.00 plus court costs. Claims for more than \$12,000.00 must be filed as formal civil actions, unless a party is willing to waive recovery of any amounts over \$12,000.00.

The Second Judicial Circuit Court is committed to providing the public with the most accurate and efficient Small Claims information. For your convenience and in compliance with SDCL 15-39, local forms have been created and posted below. These forms are accepted in Lincoln and Minnehaha Counties only. Should you have further questions, please contact your local Clerk of Court's Office.

You are more than welcome to complete these forms online and print using Adobe Acrobat Reader, or print and fill them out by hand. If you do not have access to a printer, these forms are available at the courthouse. Once completed, file them with the courthouse. Please keep in mind that it is imperative that Court Staff remain neutral; if you have legal questions or need help completing the forms, please consult with an attorney, print the South Dakota State Brochure or contact the Legal Form Helpline at 1-855-784-0004.

<i><b>Form Name</b></i>	<i><b>Description</b></i>
South Dakota State Brochure	Statewide Brochure explaining Small Claims Processes and Procedures.
Local Guide to Small Claims	A local guide for the 2 <sup>nd</sup> Circuit Courts. Filing fees are non-refundable.
Small Claims Information Sheet/Docket	Brief summary of a Small Claims action
Plaintiff's Statement of Claim	Filed by the Plaintiff when beginning a Small Claims action.
Filing Fees	Non-refundable fees for filing a Small Claims action.
Civil Case Filing Statement	Federally required information that is confidentially sealed upon filing.
Affidavit of Non-Military Status	Verification of the Defendant's Military or Non-Military status.
Denial/Answer/Counterclaim	Filed by the Defendant if disputing/counterclaiming the original claim.
Satisfaction of Judgment	Necessary for finalizing cases when the original claim has been paid or satisfied.
Fender Bender Brochure	Department of Public Safety Brochure regarding Judgment for damages.
Small Claims Packet	Entire packet of Second Circuit Court local guide, brochures and forms.

Both the plaintiff and the defendant should be certain of the date, hour, and place of trial, and be there on time. Although some judges may allow special arrangements for a party's absence in unusual circumstances, failure of either party to appear may result in a judgment for the other side. If either party is unable to appear as scheduled, he should contact the clerk of court immediately and make arrangements to reschedule the proceedings.

At the trial either party may bring in witnesses to testify, and introduce other evidence (receipts, documents etc.), in support of his claim. Hearsay is not an acceptable form of proof. Each party is responsible for the appearance of his own witnesses. In some cases, it may become necessary to subpoena unwilling witnesses to appear, or to subpoena materials into court. Upon request the clerk of court will prepare these. Contact a clerk of court office if a subpoena is needed. The requesting party is responsible for subpoena fee of \$2.00 payable to the clerk of court and any fees related to serving the subpoena payable to the sheriff or process server.

When testimony is given at trial, witnesses are placed under oath. As this testimony, and other evidence (papers, etc.), are introduced to support the claims made, the judge may ask questions of the parties and their witnesses in order to clarify the facts. After he receives all necessary, available testimony, the judge usually announces his decision. However, the judge may delay his decision, and put the judgment in writing at a later date.

A small claims judgment cannot be appealed to a higher court. The judgment may be renewed within ten years from the original date of entry of judgment. You will need to file a copy of the judgment and an affidavit that the money has not been completely collected with the clerk of court. SDCL-15-16-33 & 34.

## HOW DO I GET MY MONEY IF I WIN?

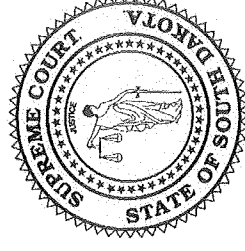
If you are awarded a money judgment, you may ask the other party to pay you immediately, unless the judge has provided a time period for payment.

**Note:** The award of a judgment does not guarantee payment of the claim. The court makes the decision and records the judgment, it does not enforce collection. While the entry of judgment does create a recorded lien against the debtor, it does not guarantee payment of the debt.

If the other party does not pay, you may begin a collection process called an execution. An execution is a court

# How To Use South Dakota's

# SMALL CLAIMS COURT



order authorizing the sheriff to seize property belonging to the losing party and sell it to satisfy the judgment. The clerk of court can provide you with the necessary form for this procedure. There is a fee for the issuance of the execution.

Unless there is a default judgment or a special court order (ask the clerk of court if either of these apply), an execution may not be issued until thirty days after the entry of judgment. After that period, it may be issued anytime within twenty years after the date of judgment. SDCL 15-18-1. (See SDCL 15-16-33 for instruction on renewal of money judgments prior to the expiration of ten years from the first docketing of the judgment.) After the proper time period has elapsed, the execution form is completed, signed by the clerk, and given to the creditor. You must take it to the sheriff's office and pay a fee to the sheriff to have him execute on the judgment. The sheriff then has sixty days to find property of the debtor to execute on.

There are some types of property that are exempt from execution, and it is sometimes difficult for the sheriff to find property that can be used to execute the judgment. When you take the execution form to the sheriff, you should provide him with the current address and place of employment of the debtor. Also, if you know of any un-mortgaged property which the debtor owns, you should provide this information to the sheriff or officer to whom you give the execution form.

The sheriff may not find property to satisfy the judgment (but he still keeps his fee). You will need to follow the statutory requirements regarding judgments.

There are other procedures available to collect on the judgment, but they are often legally complex and the assistance of an attorney may be required. There is a fee and it may even require another trial. SDCL 21-18-1, 2.1,-3.

## AFTER YOU RECEIVE PAYMENT:

After payment for the full amount of the claim has been received, the creditor receiving payment should inform the clerk in writing that full payment has been received. The clerk will then satisfy the judgment. Upon receipt of a claim by the debtor that the judgment has been paid in full but has not been satisfied by the lienholder, the court shall issue an order to show cause requiring the lienholder appear and show cause why the judgment should not be satisfied. Provided that no good cause is shown, the clerk will then satisfy the judgment. There is no charge for this satisfaction. This filing of the satisfaction of judgment will release the lien that was created by the entry of judgment.

Additional copies may be obtained by contacting the State Court Administrator's Office, 500 E. Capitol Ave., Pierre, South Dakota 57501-5070 or the website at <http://uis.sd.gov/> (Rev. 01/2012)

10,000 copies of this brochure were prepared by the Unified Judicial System of South Dakota at a cost of \$.03 per copy

## INTRODUCTION

If you think that someone has negligently or intentionally caused you financial loss or property damage, your first thought may be to "see him in court." Don't be too hasty to do this. Asking the court to resolve your problem can be time consuming and troublesome, and there is still no guarantee you will get satisfaction for your loss.

To save the time and trouble of a small claims lawsuit, you would be well advised first to contact the other party in the dispute, and try to discuss the problem calmly and objectively. Make a serious effort to arrive at an agreement that will settle the matter fairly. A reasonable solution worked out to the mutual benefit of willing parties will eliminate the stress of the courtroom confrontation. It will also reduce or eliminate the long term personal hostility that often results from this type of grievance.

If your complaint is against a business organization, there are agencies such as the Better Business Bureau that may help you get satisfaction. If your efforts to produce a reasonable settlement are not successful, the small claims court remains a practical alternative. Generally, however, the best court action, even in small claims, is the one that is avoided.

## THE SMALL CLAIMS COURT

The small claims court is an informal court which allows people to sue for small losses of money or property. The procedures are simple enough so that an individual can file and handle his own claim in court.

The limit set by the law for small claims actions is \$12,000.00 or less. SDCL 16-12C-13. However, since this limit may change from time to time, it is suggested that the plaintiff (that is the person bringing the action to court) verify with the clerk of court the maximum amount that can be claimed.

The parties (plaintiff and defendant) of the action must be at least 18 years old. If one of the parties is under the age of 18, his parent or guardian must represent him in the action. If there are a number of plaintiffs bringing action against one defendant, one of the plaintiffs may be authorized to act for all of them. A corporation may be represented by one of its officers, and a collection agency may act for a client who has made proper assignment of a debt.

## STARTING THE SMALL CLAIMS ACTION

The small claims action must be filed either in the county where the defendant lives, or in the county where the loss occurred. In some cases, this may mean that the plaintiff is required to start the small claims action by

mail, and travel to another county for the trial. A civil case filing statement must also be filed with the small claims action. The clerk of court in your own county can explain the process to you, and will file the necessary papers in the proper court.

To start the action, the plaintiff or his attorney, on a form issued by the clerk, must provide a signed written statement, describing how the loss or damage occurred. This statement, along with supporting documents (receipts, cost estimates, etc.), and the address of the plaintiff and the defendant, must be filed with the clerk of court. The fee for starting the action, and the postage and service cost required, may be added to the damages claimed against the defendant.

The fee and court costs for filing a small claims action vary, depending on the amount of loss claimed and the number of defendants. These are paid by the plaintiff at the time of filing. These amounts may be changed by law, so the plaintiff should ask the clerk about the fees or visit the website at <http://ujis.sd.gov/>. SDCL 14-6-1, 15-39-52, 16-2-39.

Claim	Fee and Court Costs
\$100 or less	\$24.20
\$100.01 to \$1,000	\$30.20
\$1,000.01 to \$3,999.99	\$40.20
\$4,000 to \$12,000	\$44.20
<i>Each Additional Defendant-Add</i>	\$ 6.20

When the clerk accepts the statement of damages claimed and the necessary fees, the case will be entered on the small claims docket. The clerk will assign the date by which the defendant must answer, or the date and time of the hearing. This is important information and it should be carefully noted for future reference.

Once the papers are filed and the action is docketed and placed on the court calendar, the clerk will send the proper notice to the defendant by certified mail, informing him of the lawsuit being brought against him. If the defendant does not receive the notice by certified mail, it may be necessary to have the sheriff serve the notice on him personally. The sheriff's service will cost the plaintiff an additional fee, and authorization by the plaintiff is required.

After receiving the notice of lawsuit, the defendant may contact the plaintiff in an attempt to settle the action out of court. It is entirely up to the plaintiff to decide whether to accept the offer of the defendant. Reasonable out-of-court settlement is advisable, but the plaintiff will not receive a refund of the filing fee or other costs should he settle out of court. If the plaintiff agrees to an out-of-court settlement, he must inform the clerk of court immediately of the settlement, and cancel the lawsuit.

## WHAT SHOULD THE DEFENDANT DO?

If the defendant, after receiving notice of lawsuit, wishes to settle the dispute without going to trial, he should contact the plaintiff and try to arrange a settlement before the trial date. If a settlement is reached and full satisfaction is given to the plaintiff at the time of agreement, the defendant should need only a receipt from the plaintiff. If the settlement is arranged for a future date, the agreement should be in writing and signed by both parties.

Although, in the event of an out-of-court settlement, it is the plaintiff's responsibility to contact the clerk of court and cancel the lawsuit, the defendant is advised to contact the office of the clerk of court to verify the cancellation.

If the defendant wishes to contest the plaintiff's claim, he must file an answer with the court according to the notice served on him. If the defendant fails to comply properly with the notice, he may lose the case by default and have a judgment entered against him in favor of the plaintiff.

The answer by the defendant should be filed in the court clerk's office within the time limit specified in the court's notice. The defendant's answer to the notice should be written clearly and in plain language. It may deny all or any part of the claim of the plaintiff, but it must specify the basis for the denial. In addition, the defendant's answer may even "counterclaim" that the plaintiff owes the defendant money, however, a counterclaim must be filed within the time frame for answer. SDCL 15-39-66. The clerk of court can explain the counterclaim, and answer any other questions about the required response by the defendant.

The defendant may wish to have the action transferred to circuit court. The procedure for this can be found in the South Dakota Codified Laws.

## WHAT HAPPENS AT THE TRIAL

Small claims court provides a low-cost process for a citizen to obtain reasonable compensation for certain damages through the binding decision of an impartial judge. Each party involved has a right to tell his story in his own words, present testimony of witnesses, ask questions, and receive the court's judgment on the issues presented. Either party may be represented by an attorney at the trial. However, because the procedures of the court are informal and the judge will explain legal procedures, hiring a lawyer is not necessary.

SMALL CLAIMS DOCKET

SCM# \_\_\_\_\_

IN MAGISTRATE COURT, COUNTY OF \_\_\_\_\_, SD

Default Hearing: \_\_\_\_\_  
Reset Default Hearing: \_\_\_\_\_  
Court Trial: \_\_\_\_\_  
Reset Court Trial: \_\_\_\_\_

Fees Paid: \$ \_\_\_\_\_  
☐ Sheriff/Personal Service requested – certified mail returned unclaimed – returned refused

<b>Plaintiff 1:</b> Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ Cell: _____ Work: _____ Attorney & Address: _____	<b>Defendant 1:</b> Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ Cell: _____ Work: _____ Attorney & Address: _____
<b>Plaintiff 2:</b> Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ Cell: _____ Work: _____ Attorney & Address: _____	<b>Defendant 2:</b> Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ Cell: _____ Work: _____ Attorney & Address: _____

<b>Certified Mail Service:</b>	Mailed: _____	Returned: _____	Delivered: _____
<b>Sheriff/Personal Service:</b>	Authorized: _____	Returned: _____	Served: _____
<b>Court Remarks:</b> _____			
<b>Date Claim Dismissed:</b> _____	With Prejudice	Without Prejudice	Signature: _____
<b>Judgment in favor of:</b> _____	Plaintiff	Defendant	
Date of Judgment: _____	Amount: \$ _____	Interest: \$ _____	Costs: \$ _____ Total: \$ _____
X _____ Clerk-Magistrate or Magistrate Judge			
<b>Date Judgment Satisfied:</b> _____	By: _____		

**Plaintiff's Claim:**

Principal \$

Interest \$

Sub Total \$

Filing Fees \$

**Plaintiff's Total** \$

Service Fees \$

Total \$

Date:

X

Additional Costs

(Service Fees – it is the responsibility of the plaintiff to file the Return of Service)

Signature of Plaintiff

**Plaintiff's Affidavit of Defendant's Non-Military Status:**

I, being first duly sworn on my oath, depose and state:

1. I am over the age of eighteen years and am competent to make this affidavit.
2. I am the plaintiff or plaintiff's agent in the above-entitled matter.
3. That I have either made a personal investigation or personally reviewed the business records of the defendant.
4. As a result of the investigation or review:

☐ It is my belief that the above-named defendant is not in the military services on active duty;☐ It is my belief that the above-named defendant is in the military service on active duty;☐ I have been unable to determine whether or not the defendant is in the military service on active duty.

My information and belief is based on the following:

I understand that any false statements in this document are made under perjury, and that making a false statement is a violation of Federal Law and is subject to both fine and imprisonment.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Deputy Clerk or Notary Public

If Notary, my commission expires: \_\_\_\_\_

(SEAL)

**Defendant's Answer/Denial: Filed on**

Counterclaim \$

Interest \$

Filing Fees \$

**Defendant's Total** \$

Date:

X

Additional Costs

Service Fees – it is the responsibility of the defendant to file the Return of Service

Signature of Defendant

STATE OF SOUTH DAKOTA )

IN CIRCUIT COURT

COUNTY OF \_\_\_\_\_)

SECOND JUDICIAL CIRCUIT

\*\*\*\*\*

\_\_\_\_\_,  
Plaintiff(s)

**PLAINTIFF'S  
STATEMENT OF CLAIM**

vs.

SMC Case No. \_\_\_\_\_

\_\_\_\_\_,  
Defendant(s)

\*\*\*\*\*

\_\_\_\_\_  
Plaintiff(s) Name or Business Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Defendant(s) Name or Business Name

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Defendant(s) Name or Business Name

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

Exact Dollar Amount: \$ \_\_\_\_\_ (exclude filing and service fees)

Date of Occurrence: \_\_\_\_\_ (month and year)

Describe the basis for your claim:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Plaintiff's Printed Name

\_\_\_\_\_  
Signature of Plaintiff

\_\_\_\_\_  
Date

\_\_\_\_\_  
Home Phone Number

\_\_\_\_\_  
Cell Phone Number

\_\_\_\_\_  
Email Address

SMALL CLAIMS FILING FEES			
Claim Amount	Filing Fee (1 Party with Certified Mail)	Filing Fee (2 Parties with Certified Mail)	Filing Fee without Certified Mail
\$ .01 - \$100.00	\$24.20	\$30.40	\$18.00
\$100.01 - \$1,000.00	\$30.20	\$36.40	\$24.00
\$1,000.01 - \$3,999.99	\$40.20	\$46.40	\$34.00
\$4,000.00 - \$12,000.00	\$44.20	\$50.40	\$38.00
Additional Information			
Secretary of State (605)773-4845 - For all claims that are filed against Corporations			Filing Fee \$30.00
Division of Insurance - For claims that are filed against Insurance Companies			\$10.00
Certified Mailing Fee - For claims that are delivered via certified mail			\$6.20

SMALL CLAIMS FILING FEES			
Claim Amount	Filing Fee (1 Party with Certified Mail)	Filing Fee (2 Parties with Certified Mail)	Filing Fee without Certified Mail
\$ .01 - \$100.00	\$24.20	\$30.40	\$18.00
\$100.01 - \$1,000.00	\$30.20	\$36.40	\$24.00
\$1,000.01 - \$3,999.99	\$40.20	\$46.40	\$34.00
\$4,000.00 - \$12,000.00	\$44.20	\$50.40	\$38.00
Additional Information			
Secretary of State (605)773-4845 - For all claims that are filed against Corporations			Filing Fee \$30.00
Division of Insurance - For claims that are filed against Insurance Companies			\$10.00
Certified Mailing Fee - For claims that are delivered via certified mail			\$6.20

**SOUTH DAKOTA UNIFIED JUDICIAL SYSTEM**  
**Guide to Filing Fees and Court Costs**  
**Effective 07/01/2012**

<b>CIVIL COURT COSTS</b>	<b>Filing Fee</b>		<b>Court Automation Surcharge</b>		<b>Law Library Fee</b>		<b>Postage</b>		<b>Total Court Costs</b>
Divorce	\$50.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$95.00
Child Support Modification	\$50.00	+	\$0.00	+	\$0.00	+	\$0.00	=	\$50.00
Civil Cases filed for Jury or Court Trial	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Default Judgments	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Default with Garnishment	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Dissolution of Corporation	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Foreclosure	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Quiet Title	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Appeals from an Administrative Agency	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Adoptions	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Name Change	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Secretary of State (Optional)	\$30.00 - To South Dakota Secretary of State when a claim is filed against a Corporation								
Division of Insurance (Optional)	\$10.00 - To State Division of Insurance when a claim is filed against an Insurance Company								

*\*Please review SDCL 15-6-4(d) regarding personal service of summons\**

<b>Small Claims</b>									
Claims for \$.01 - \$100.00	\$4.00	+	\$12.00	+	\$2.00	+	\$6.20	=	\$24.20
Claims for \$100.01 - \$1,000.00	\$10.00	+	\$12.00	+	\$2.00	+	\$6.20	=	\$30.20
Claims for \$1,001.00 - \$3,999.99	\$20.00	+	\$12.00	+	\$2.00	+	\$6.20	=	\$40.20
Claims for \$4,000.00 - \$12,000.00	\$20.00	+	\$16.00	+	\$2.00	+	\$6.20	=	\$44.20
For Each Additional Defendant	\$6.20	+	\$0.00	+	\$0.00	+	\$0.00	=	\$6.20
Subpoena's	\$2.00	+	\$0.00	+	\$0.00	+	\$0.00	=	\$2.00
Secretary of State (Optional)	\$30.00 - To South Dakota Secretary of State when a claim is filed against a Corporation								
Division of Insurance (Optional)	\$10.00 - To State Division of Insurance when a claim is filed against an Insurance Company								
Raising Small Claims to Civil Court	\$35.00 - This occurs when a Small Claims Case is raised to Civil Court								
Bond posted by Defendant	\$250.00 - A bond is required when raising a Small Claims Case to Civil Court								

<b>Probate</b>									
Estate (Probate of Wills)	\$75.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$120.00
Summary Disposition	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Termination	\$25.00	+	\$40.00	+	\$5.00	=	\$0.00	=	\$70.00
Special Administrations	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Determination of Inheritance Tax	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Guardianships (includes all subsequent papers)	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Trust	\$25.00	+	\$40.00	+	\$5.00	+	\$0.00	=	\$70.00
Safekeeping and Filing of Wills	\$2.00	+	\$0.00	+	\$0.00	+	\$0.00	=	\$2.00
Sale of Property	\$0.00	+	\$0.00	+	\$0.00	+	\$0.00	=	No Charge

**Issuing the following documents:**

	<b>Total Fee</b>
Execution	\$5.00
Special Execution	\$5.00
Writ of Execution or Commission	\$5.00
Filing and/or Docketing a Transcript of Judgment	\$10.00

**Supreme Court of Appeals**

To Clerk of Circuit Court	\$50.00 - Filing Fee
To Clerk of Supreme Court	\$50.00 - Filing Fee + \$50.00 Court Automation Surcharge = \$100.00

<b>CRIMINAL COURT COSTS</b>	<b>Liquidated Costs</b>		<b>Court Automation Surcharge</b>		<b>Victim's Compensation Surcharge</b>		<b>Total Court Costs</b>
All Felonies	\$40.00	+	\$61.50	+	\$2.50	=	\$104.00
All Class 1 Misdemeanors	\$40.00	+	\$41.50	+	\$2.50	=	\$84.00
Class 2 Misdemeanors (Violation of State Law)	\$40.00	+	\$23.50	+	\$2.50	=	\$66.00
All Violations of County or Municipal Ordinances	\$40.00	+	\$17.50	+	\$2.50	=	\$60.00
All Violations of Administrative Rules with Criminal Penalties	\$40.00	+	\$17.50	+	\$2.50	=	\$60.00

Petty Offenses                      No Court Costs, but fines will be assessed

*\*According to SDCL 25-10-1, effective July 1, 2011, any person convicted of a crime involving domestic violence or domestic abuse, the court shall order additional court costs of \$25.00 to be paid to the Clerk of Courts\**

<b>MISCELLANEOUS (Criminal &amp; Civil)</b>	<b>Total Fee</b>
---------------------------------------------	------------------

Record Searches	\$15.00
Authenticated Copies	\$2.00
Certified Copies	\$2.00
Standard Copies	\$0.20
CourtSmart CD's	\$5.00

Fax Filings (received by the Court)	\$10.00 or \$1.00 per page, whichever is greater
Sending a Fax (sent by the Court)	\$1.00 per page or \$5.00 minimum

Insufficient Funds Check	\$30.00 - Service Charge
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# CIVIL CASE FILING STATEMENT

(Two-Party Cases)

Please check the case type you are filing:

CIV: ☒ Tort ☐ Contract ☐ Name Change ☐ Paternity\* ☐ Quiet Title ☐ Claim and Delivery  
☐ Foreign Judgment ☐ Administrative Appeal ☐ Condemnation ☐ Forcible Entry & Detainer  
☐ Habeas Corpus ☐ Other Writ ☐ Other

DIV: ☐ Divorce\* ☐ Annulment\* ☐ Separate Maintenance\*

SMC: ☐ Small Claims

*Complete a form for each additional Plaintiff or Defendant*

Plaintiff: \_\_\_\_\_  
Last/Business name First Middle Suffix

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Date of Birth: \_\_\_\_\_  
mm dd yyyy

Social Security #: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ and/or Drivers license # \_\_\_\_\_ State \_\_\_\_\_

Employer ID (if Plaintiff is a business or other entity) \_\_\_\_\_

Attorney: \_\_\_\_\_  
Last First Middle Suffix

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Defendant: \_\_\_\_\_  
Last/Business name First Middle Suffix

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Date of Birth: \_\_\_\_\_  
mm dd yyyy

Social Security #: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ and/or Drivers license # \_\_\_\_\_ State \_\_\_\_\_

Employer ID (if Defendant is a business or other entity) \_\_\_\_\_

Attorney: \_\_\_\_\_  
Last First Middle Suffix

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

\*For cases involving divorce, child support, and paternity, you must include your Social Security Number. 42 USC 666(a)(13)(B).

STATE OF SOUTH DAKOTA )

IN CIRCUIT COURT

COUNTY OF \_\_\_\_\_)

SECOND JUDICIAL CIRCUIT

\*\*\*\*\*

\_\_\_\_\_,  
Plaintiff(s)

**PLAINTIFF'S AFFIDAVIT  
OF DEFENDANT'S  
NON-MILITARY STATUS**

vs.

SMC Case No. \_\_\_\_\_

\_\_\_\_\_,  
Defendant(s)

\*\*\*\*\*

I, being first duly sworn on my oath, depose and state:

1. I am over the age of eighteen years and am competent to make this affidavit.
2. I am the plaintiff or plaintiff's agent in the above-entitled matter.
3. That I have either made a personal investigation or personally reviewed the business records of the defendant.
4. As a result of the investigation or review:
  - ☐ It is my belief that the above-named defendant is not in the military services on active duty;
  - ☐ It is my belief that the above-named defendant is in the military service on active duty;
  - ☐ I have been unable to determine whether or not the defendant is in the military service on active duty.

My information and belief is based on the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I understand that any false statements in this document are made under perjury, and that making a false statement is a violation of Federal Law and is subject to both fine and imprisonment.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Deputy Clerk or Notary Public

If Notary, my commission expires: \_\_\_\_\_

(SEAL)

STATE OF SOUTH DAKOTA )

IN CIRCUIT COURT

COUNTY OF \_\_\_\_\_)

SECOND JUDICIAL CIRCUIT

\*\*\*\*\*

\_\_\_\_\_,  
Plaintiff(s)

vs.

**DEFENDANT'S  
DENIAL/ANSWER/COUNTERCLAIM**

SMC Case No. \_\_\_\_\_

\_\_\_\_\_,  
Defendant(s)

\*\*\*\*\*

DENIAL/ANSWER: I am the Defendant (or an authorized representative of the Defendant):

- ☐ I agree with the Plaintiff's Statement of Claim. Judgment may be taken as requested in the complaint, plus costs and interest as allowed by law.
- ☐ I do not agree with the Plaintiff's Statement of Claim for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COUNTERCLAIM: I believe that Plaintiff owes me \$\_\_\_\_\_ and the basis of my claim is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Defendant's Printed Name

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Date Home Phone Number Cell Phone Number Email Address

**State of South Dakota****Circuit Court**

County \_\_\_\_\_

Judicial Circuit: \_\_\_\_\_

Court File Number: \_\_\_\_\_

Case Type: \_\_\_\_\_ Civil / Small Claims

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Plaintiff(s)

vs.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Defendant(s)**Satisfaction of Judgment  
(SDCL 15-16-14, et seq.)****Partial Satisfaction**

I, \_\_\_\_\_, the undersigned judgment creditor hereby certify that judgment in the amount of \$ \_\_\_\_\_ which was entered in this Court on \_\_\_\_\_ in favor of \_\_\_\_\_ and against \_\_\_\_\_ is partially satisfied in the following amounts:

Date Collected	Total Collected	Credit/Costs	Credit/Interest	Credit/Principal

and the Clerk of Court shall record the same.

**Full Satisfaction**

I, \_\_\_\_\_, the undersigned judgment creditor hereby certify that judgment in the amount of \$ \_\_\_\_\_ which was entered in this Court on \_\_\_\_\_, in favor of \_\_\_\_\_ and against \_\_\_\_\_ is fully satisfied and the Clerk of Court shall record the same.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature (Sign only in front of notary public or court clerk.)

Name: \_\_\_\_\_

Sworn/affirmed before me this

Address: \_\_\_\_\_

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

City/State/Zip: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_  
Notary Public \ Deputy Court Clerk